

F 954-0938

A. WILSON #391-3900
L. BARTILSON

F. GREENE F 456-5318

SUPERIOR COURT, MARIN COUNTY, CALIFORNIA
CIVIL CALENDAR AND MINUTES

RULINGS

DATE: FRIDAY, MARCH 25, 1994 TIME: 9:00 REPORTER: E. PASSARIS
OPPOSITION DUE: 3/18/94 JUDGE: GARY W. THOMAS CLERK: J. BANKSON
REPLY DUE: 3/23/94 DEPT. NO. 1 COMPLETED: _____

CASE NO.	TITLE OF ACTION	PROCEEDING	ATTORNEY
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12) 157680	CHURCH OF SCIENTOLOGY INTERNATIONAL V GERALD ARMSTRONG, ET AL		
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PLAINTIFF'S FAILURE TO TAB ITS EXHIBITS ON THE COURT'S COPY AS REQUIRED BY LOCAL RULE 2.03B INCREASED THE COURT'S BURDEN IN ANALYZING THE DEMURRER. PLAINTIFF'S SHALL PAY SANCTIONS IN THE AMOUNT OF \$49 TO THE CLERK OF THE COURT WITHIN 10 DAYS FOR ITS FAILURE TO COMPLY WITH LOCAL RULES. (CAL. RULES OF COURT, RULE 227.)

THE DEMURRER TO THE FIRST AMENDED CROSS-COMPLAINT IS SUSTAINED. AS TO THE FIRST CAUSE OF ACTION FOR DECLARATORY RELIEF, CROSS-COMPLAINANT SEEKS A DECLARATION OF ISSUES WHICH WILL BE DETERMINED IN THE LOS ANGELES SUPERIOR COURT ACTIONS (ENFORCEABILITY OF SETTLEMENT CONTRACT) OR IN THE UNDERLYING COMPLAINT (ABILITY OF PLAINTIFF TO RECOVER UNDER THE UNIFORM FRAUDULENT TRANSFER ACT). (SEE CALIFORNIA INS. GUARANTEE ASSN. V. SUPERIOR COURT (1991) 231 CAL.APP.3D 1617, 1623-1624.) AS TO THE SECOND CAUSE OF ACTION FOR ABUSE OF PROCESS, CROSS-COMPLAINANT FAILS TO ALLEGE ANY "WILFUL ACT IN THE USE OF THE PROCESS NOT PROPER IN THE REGULAR CONDUCT OF THE PROCEEDING." (SEE OREN ROYAL OAKS VENTURE V. GREENBERG, BERNHARD, WEISS & KARMA, INC. (1986) 42 CAL.3D 1157, 1168.) ALL OF THE ALLEGATIONS REGARDING PLAINTIFF'S PURSUIT OF THIS LITIGATION GO TO THE FIRST ELEMENT OF THE CAUSE OF ACTION, "ULTERIOR PURPOSE." (ID.) CROSS-COMPLAINANT SHALL HAVE 20 DAYS' LEAVE TO AMEND TO STATE A CAUSE OF ACTION, IF HE CAN.

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MAR 24 1994

HUB LAW OFFICES